



# HAT CREEK CONSTRUCTION & MATERIALS, INC.

"WE SPECIALIZE IN SATISFIED CUSTOMERS"

December 20<sup>th</sup>, 2016

California Department of Transportation  
Division of Engineering Services  
Office Engineer, MS-43  
PO Box 168041  
Sacramento, CA 95816-8041  
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Attention: John McMillan, Deputy Division Chief

RE: Contract 02-2H3404  
Bid Opened 12/15/16  
Bid Protest of Rocky Mountain Construction

Dear Mr. McMillan:

Please consider this letter to be a formal protest of the bid submitted by Rocky Mountain Construction (RMC) on the above referenced project. Hat Creek Construction & Materials, Inc. (HCCMI) contends that RMC submitted a bid that is both mathematically and materially unbalanced.

A mathematically unbalanced bid is a bid containing a unit bid item that does not reflect a reasonable actual cost plus a reasonable share of the bidder's anticipated profit, overhead costs and any indirect costs. A bid is materially unbalanced when it generates a reasonable doubt that the award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the state.

RMC's bid for Contract Bid Item 19, Tack Coat, was bid at a unit cost of \$0.01 per ton, in comparison to the other 3 bidders which ranged from \$730 per ton to \$1,028 per ton. Tack Coat cannot be acquired for this price. By bidding this way, RMC has submitted a bid that becomes materially unbalanced when an analysis of the areas where the Tack Coat is to be applied is conducted. This item of work is set to underrun by a very large percentage. Tack Coat is not an adjustable item (i.e. does not have the underrun/overrun specifications that allow for an adjustment to the unit price). When the significant underrun of quantity is calculated using the unit price (\$0.01 per ton), it makes the total price for the overall project become more than if the project was awarded to the next lowest bidder HCCMI.



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In calculating the total area that will require Tack Coat HCCMI took a conservative approach (i.e. figured the tack straight without the allowed 50% dilution) and came up with a total quantity of 19.6 tons (see attachment A). When applying this tonnage to the unit prices provided by both RMC and HCCMI, it becomes clear that HCCMI provided the lowest price to the State when the project is actually built. HCCMI's total price becomes \$1,310,251 and RMC's total price becomes \$1,312,312.16 (See Attachment A). After running an analysis on Bid Item #19, the road would have to be an average of 58' wide (at the specified spread rate of 0.04 gal/SY) to reach the Bid Item quantity of 36 tons. RMC clearly recognized this and materially unbalanced their bid.

Per regulations the state is required to consider the risks to the government associated with the unbalancing pricing in making the award decision and whether the contract will result in unreasonably high prices for contract performance. A bid should be rejected if Caltrans determines that the unbalanced bid poses an unacceptable risk to the government. Given the calculations provided in (Attachment A) for Bid Item 19, Tack Coat, it is clear that the underrun in quantity will result in the State paying more in the end than if the project were awarded to the next lowest bidder HCCMI.

Therefore, it is respectfully requested that Caltrans deem RMC non-responsive and award this project to HCCMI, the lowest responsive/responsible bidder.

Thank you for your consideration.

Respectfully,

Weston Hutchings  
Operations Manager  
Hat Creek Construction & Materials, Inc.

## Attachment A

### Bid Item #19 Tack Analysis vs Plan Qty

Description	Length (Miles)	Length (FT)	Avg Width of Road (LF)	Total Area (SY)	Spread Rate (Gal/SY)	(Gal/Ton)	Total Tons
Tack Coat Mainline Roadway	6.00	31,680.00	33.00	116,160.00	0.04	240.00	19.36
Tack Coat Driveways/Road Connections (Area Per Qty in Table Sheet 10)	N/A	N/A	N/A	963.00	0.06	240.00	0.24
Total Tons of Tack							19.60

Bid Item #19 - 36 Tons of Tack	Bid Item Qty
19.000	36.000

**Bid Item #19 - 19.6 Tons of Tack Actual Qty**

### Underrun of 16.4 Tons of Tack

RMC Original Bid	\$1,312,312.32
Bid Item #19 Underrun of Tack of 16.4 Tons x \$0.01/Ton	-\$0.16
<u>Adjusted Bid Amount with Actual Qty of Tack</u>	<u>\$1,312,312.16</u>

HCCMI Original Bid	\$1,322,223.00
Bid Item #19 Underrun of Tack of 16.4 Tons x \$730/Ton	-\$11,972.00
Adjusted Bid Amount with Actual Qty of Tack	\$1,310,251.00 <i>Low Bidder</i>



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## FACSIMILE TRANSMITTAL SHEET

TO: John McMillan FROM: Weston Hutchings  
COMPANY: Caltrans DATE: 12-21-16  
FAX NUMBER: 1-916-227-6282 TOTAL NO. OF PAGES INCLUDING COVER: 4

☒ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY

NOTES/COMMENTS:

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